

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID GRIFFOR,

Plaintiff,

Case No. 10-CV-12383

v.

HON. GEORGE CARAM STEEH

FEDERAL DEPOSIT INSURANCE  
CORPORATION, as Receiver  
for CF BANCORP,

Defendants.

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ORDER DENYING DEFENDANT'S MOTION FOR PARTIAL DISMISSAL

On December 10, 2010, defendant filed a motion for partial dismissal of complaint under Rule 12(b). The motion seeks dismissal of count v of plaintiff's complaint, the claim for misrepresentation. Defendant argues the misrepresentation claim should be dismissed as plaintiff failed to plead the claim with particularity, as required by Rule 9. On December 27, 2010, plaintiff filed an amended complaint as provided by Fed. R. Civ. P. 15(a)(1)(B). The amended complaint contains new allegations. While making no determinations regarding the sufficiency of plaintiff's amended misrepresentation claim, the court believes defendant's motion is moot. In the event defendant concludes a motion for partial dismissal is still appropriate, defendant may file a new motion within the applicable time limit.

IT IS HEREBY ORDERED that defendant's motion for partial dismissal of complaint is denied without prejudice.

Dated: January 13, 2011

s/George Caram Steeh  
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GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on  
January 13, 2011, by electronic and/or ordinary mail.

s/Marcia Beauchemin  
Deputy Clerk